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**Attorney for Plaintiff(s)**  
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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEW JERSEY**

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Plaintiffs,

THEMI GUERRIERO, Guardian Ad Litem  
of A.G., a minor of six years, THEMI  
GUERRIERO and ANGELO GUERRIERO,  
Individually

vs.

Civil Action No. 2:12-cv-05246-KM-NAH

Defendants,

**SECOND**  
**AMENDED COMPLAINT**  
**AND JURY DEMAND**

SANFORD L.P. a Division of NEWELL  
RUBBERMAID, NEWELL RUBBERMAID,  
NORTH CAROLINA PLASTICS, CAROLINA  
PRECISION PLASTIC, LLC, CPP GLOBAL,  
LLC, "ABC CORP. 1-10" and  
"DEF CORP. 1-10" (the last being  
fictitious designations)

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Plaintiff, THEMI GUERRIERO, Guardian ad Litem of A.G., a minor of six  
years, THEMI GUERRIERO and ANGELO GUERRIERO, Individually, residing at  
135 Morningside Road in the Borough of Paramus, County of Bergen and State  
of New Jersey, by way of Complaint against the Defendants, say:

**FIRST COUNT**  
**Products Liability Act**

1. Upon information and belief, at all times hereinafter mentioned, the Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations), were corporations doing business in the State of New Jersey, engaged in the design, manufacture, supply, assembly, installation, maintenance, inspection, repair, packaging, distribution, advertising, marketing and/or sale of a certain Sharpie Ultra Fine Marker, and its accompanying parts, including its cap (hereinafter sometimes referred to as the “product”).

2. On or about June 13, 2011, Plaintiff, A.G. a minor of six years, was caused to become injured by the cap of the above mentioned Sharpie Ultra Fine Marker, due to the negligent, careless, defective and/or hazardous design, manufacture, supply, assembly, installation, maintenance, inspection, repair, packaging, distribution, advertising, marketing and/or sale of said Sharpie Ultra Fine Marker.

3. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) owed a duty to Plaintiff and foreseeable users, including Plaintiff, to exercise due care in designing, manufacturing, supplying, assembling, installing, maintaining, inspecting, repairing, packaging, distributing, advertising, marketing and/or selling the Sharpie Ultra Fine Marker in this action.

4. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) owed a duty to Plaintiff and foreseeable users, including Plaintiff,

to exercise due care in designing, manufacturing, supplying, assembling, installing, maintaining, inspecting, repairing, packaging, distributing, advertising, marketing and/or selling the Sharpie Ultra Fine Marker so as not to allow a defective product to be put into the stream of commerce.

5. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) breached their duty of care to Plaintiff when they negligently and/or carelessly designed, manufactured, supplied, assembled, installed, maintained, inspected, repaired, packaged, distributed, advertised, marketed and/or sold a Sharpie Ultra Fine Marker in a negligent, careless and/or defective manner, negligently and/or carelessly allowed a defective product to be put into the stream of commerce; failed to warn or give adequate notice of the defective condition of the product and/or failed to otherwise exercise due care with respect to the defective condition of the product.

6. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) knew or in the exercise of reasonable care should have known that the product was defective and/or designed, manufactured, supplied, assembled, installed, maintained, inspected, repaired, packaged, distributed, advertised, marketed and/or sold in a defective manner.

7. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) knew or in the exercise of reasonable care should have known that the if the product was defective and/or improperly designed, manufactured, supplied, assembled, installed, maintained, inspected, repaired,

packaged, distributed, advertised, marketed and/or sold in a defective manner, it was a dangerous instrument and presented the probability of harm to foreseeable users.

8. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being a fictitious designation) breached their duty to Plaintiff when they negligently and/or carelessly failed to warn Plaintiff of the defective and/or inherently dangerous condition of the Sharpie Ultra Fine Marker and/or failed to inspect same to determine whether it was reasonably fit for its intended use.

9. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) impliedly warranted to the Plaintiff and persons such as Plaintiff, that the product was merchantable, safely designed, and fit for the particular purpose for which it was produced, sold and/or intended to be used. Plaintiff relied on those warranties when handling the product while in course of his usual business and/or recreational use.

10. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) breached those implied warranties in that the product was defective and/or defectively designed, manufactured, supplied, assembled, installed, maintained, inspected, repaired, packaged, distributed, advertised, marketed and/or sold. In fact, the product was inherently dangerous in the design, manufacture, supply, assembly, installation, maintenance, inspection, repair, packaging, distribution, advertising, marketing and/or sale.

11. Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) designed, manufactured, supplied, assembled, installed, maintained, inspected, repaired, packaged, distributed, advertised, marketed and/or sold the product with defects which made it unsafe for its intended use.

12. The defect and/or defects rendered the product an unreasonably dangerous product fraught with unexpected dangers to foreseeable users.

13. Plaintiff, A.G. was in no way responsible for causing his own injuries.

14. Defendants are strictly liable in tort for damages incurred by Plaintiffs as a result of the defective product.

15. As a proximate cause and reasonably foreseeable result of Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) negligent acts and/or omissions, the Plaintiff, A.G. suffered great pain and torment as a result of his severe, permanent, disfiguring and disabling injuries, both mental and physical, has been and will be in the future compelled to spend great and diverse sums of money for medical aid and treatment, and has been and will be prevented from attending to his usual schooling, occupation, duties, activities and future business.

WHEREFORE, Plaintiff, THEMI GUERRIERO, Guardian ad Litem of A.G. a minor of six years, THEMI GUERRIERO and ANGELO GUERRIERO, Individually, demand judgment against Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC their agents, servants and/or employees and/or “ABC CORP. 1-10” and/or “DEF CORP. 1-10” (the last being fictitious designations) jointly severally and/or jointly and severally, for compensatory damages, interest and costs of suit.

## **SECOND COUNT**

### **Demand for Punitive Damages**

1. Plaintiffs repeat the allegations contained in the First Count of the Complaint as if set forth herein at length.

2. At the aforesaid time and place, the Defendants owed a duty to Plaintiff and/or persons such as Plaintiff not to design, manufacture, supply, assemble, install, maintain, inspect, repair, package, distribute, advertise, market and/or sell a defective product, with conscious indifference, willful, wanton and/or malice disregard for the dangers inherent in the design, manufacture, supply, assembly, installation, maintenance, inspection, repair, packaging, distribution, advertising, marketing and/or sale of the defective product.

3. The Defendants breached their duty to Plaintiffs by recklessly and/or intentionally and/or purposefully and/or maliciously designing, manufacturing, supplying, assembling, installing, maintaining, inspecting, repairing, distributing, advertising, marketing and/or selling the defective product in such a way so as to cause the Plaintiff, A.G., a minor of six years, to become injured.

4. At all times hereinafter mentioned, the Defendants had actual notice of the product's defect and/or the said hazardous, dangerous and unreasonable conditions of the product.

5. As a proximate cause and reasonably foreseeable result of Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or "ABC CORP. 1-10" and/or "DEF CORP. 1-10" (the last being fictitious designations) design and/or manufacture of a defective product and the sale of that inherently dangerous and/or defective product, the Plaintiff, A.G. suffered great pain and torment as a result of his severe, permanent, disfiguring and disabling injuries, both mental and physical, and has been and will be in the



future compelled to spend great and diverse sums of money for medical aid and treatment, and has been and will be prevented from attending to his usual schooling, occupation, duties, activities and future business.

WHEREFORE, Plaintiff, THEMI GUERRIERO, Guardian ad Litem of A.G. a minor of six years, THEMI GUERRIERO and ANGELO GUERRIERO, Individually, demand judgment against Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or "ABC CORP. 1-10" and/or "DEF CORP. 1-10" (the last being fictitious designations) jointly severally and/or jointly and severally, for compensatory damages, punitive damages, attorney fees, interest and costs of suit.

### **THIRD COUNT**

#### **Plaintiffs', THEMI GUERRIERO and ANGELO GUERRIERO, Loss of Services of Plaintiff A.G.**

1. Plaintiffs repeat and reallege the allegations of the First and Second, Counts of the Complaint as if set forth herein at length.

2. Plaintiffs, THEMI GUERRIERO and ANGELO GUERRIERO, are the mother and father (respectively) and legal guardians of the Plaintiff, A.G. a minor who was six years of age at the time of the subject accident.

3. As a proximate cause and reasonably foreseeable consequence of the actions of the Defendants aforesaid, the Plaintiffs, THEMI GUERRIERO and ANGELO GUERRIERO, are being and will be deprived of the services of the Plaintiff, A.G., a minor, for a long period of time.

WHEREFORE, Plaintiffs, THEMI GUERRIERO Individually and ANGELO GUERRIERO Individually, demand judgment against the Defendants, SANFORD L.P. a Division of NEWELL RUBBERMAID, NEWELL RUBBERMAID, NORTH CAROLINA PLASTICS, CAROLINA PRECISION PLASTIC, LLC, CPP GLOBAL, LLC, their agents, servants and/or employees and/or "ABC CORP. 1-10" and/or "DEF CORP. 1-10" (the last being fictitious designations) jointly,

severally, and/or jointly and severally, for compensatory damages, punitive damages, attorney fees, interest and costs of suit.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Rosemarie Arnold, Esq. is designated as trial counsel.

**CERTIFICATION**

I hereby certify that this matter is not the subject of any other action pending in any court or arbitration proceeding, that no such other action or arbitration proceeding is contemplated by this Plaintiffs, and that there are no other parties, whom, to the knowledge of the Plaintiffs' counsel, should be joined in this action.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 18, 2017



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ROSEMARIE ARNOLD